

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

WP(C).No. 28313 of 2007(U)

PETITIONER:

V.Y. BABY, S/O. YOUNAN @ JOHN,
VATTAPPARAMBIL HOUSE, AIKKARANAD SOUTH,
POOTHRIKKA, KUNNATHUNAD, ERNAKULAM.

BY ADV. SRI.SHEJI P.ABRAHAM

RESPONDENTS:

1. STATE OF KERALA,
REP. BY THE PRINCIPAL SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
TRIVANDRUM.
2. THE COMMISSIONER FOR GOVERNMENT
EXAMINATIONS, PAREEKSHA BHAVAN, TRIVANDRUM-12.

BY GOVERNMENT PLEADER SRI. A.J. VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)No.28313 OF 2007

Dated this the 26th day of September, 2007

JUDGMENT

The petitioner claims that although he was born on 1.10.1956, his date of birth has been wrongly entered in his S.S.L.C. Book as 4.10.1954. On 17.7.2000, he got an employment in the K.S.R.T.C. Thereafter, the petitioner approached the authorities for correction of date of birth in the S.S.L.C. Book on the basis of Ext.P2 Baptism certificate issued by the Church. The same was rejected on the ground that the application must be accompanied by proof of date of birth issued by an authority of Government. The petitioner approached the Panchayat for obtaining a birth certificate and he learned that his birth was not registered in the register of Births. So he approached the Revenue Divisional officer as provided under the Registration of Births and Deaths Act for registration of his birth. Consequently, the Revenue Divisional Officer conducted an enquiry and passed Ext.P3 order registering his birth as on 1.10.1956. Based on that a birth certificate Ext.P3(a) has been

issued to the petitioner. Supported by Ext.P3(a), the petitioner applied before the Government for correction of his date of birth in the S.S.L.C. Book which was rejected by Ext.P4 stating that the application has been filed beyond the limitation period prescribed under Rule 3 of Chapter VI of the Kerala Education Rules and the delay also cannot be condoned because he has already crossed 50 years of age, which is the outer limit prescribed for condonation of delay. The petitioner challenges Ext.P4 order and seeks a direction to the respondents to correct his date of birth in the S.S.L.C. Book as 1.10.1956 instead of 4.10.1956.

2. I have heard the learned counsel for the petitioner.

Rule 3 of Chapter VI of the K.E.R. reads thus:

"3.Alteration of Date of Birth etc-(1)
The name of a pupil, his religion and his date of birth once entered in the Admission Register shall not be altered except with the sanction of the authority specified by Government in this behalf by notification in the Gazette. Applications for such alterations and correction should be submitted by the parent or guardian, if the pupil is still on the rolls of any school and by the pupil himself if he is not on the rolls of any school. All such applications shall be forwarded through the

Headmaster with satisfactory evidence.¹
[Court fee stamps to the value of One Rupee shall be affixed on such application]

²[(1A) A time limit of ³ [fifteen years] from the date of leaving the school or the date of appearing for the S.S.L.C. Examination for the last time whichever is earlier is fixed for entertaining requests for correction of date of birth in school records by the Commissioner of Government Examinations ⁴[xxx].

(2) if the authority referred to in sub-rule(1) is satisfied after necessary enquiries that the change applied for could be granted, he will issue an order to make the alteration. The alteration shall then be made in the Admission Register and the other connected records of the schools previously attended by the pupil as well as in the school in which he was studying at the time.

¹[xxxx]

²[(3)An appeal shall lie to Government against the orders of the authority referred to in sub-rule (1) within one month of the receipt of the order appealed against:

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if he is satisfied that the appellant had sufficient cause for not submitting the appeal in time]

(4)if any change of name is sanctioned after the issue of a public Examination Certificate, the candidate concerned shall notify the change in name in the Gazette and the notification shall be attached to his certificate."

The rule does not permit condonation of delay, if the petitioner

has already crossed 50 years of age as per the original entry in the school records. Admittedly the petitioner had already crossed 50 years of age at the time of application for correction of date of birth in the SSLC book and the limitation period prescribed is therefore over. Of course, the petitioner would rely on the decision in **PRATHAPACHANDRA VARMA VS. STATE OF KERALA** (1968 KLT 440) to contend that even then delay can be condoned and date of birth corrected. On a reading of the said decision I do not think that the said decision is of any help to the petitioner because it deals with an entirely different situation. The petitioner's contention is that since he could apply for the correction only after obtaining authoritative documents which he received only on 5.5.03, he cannot be found fault with for late application. According to him, since it is not because of any fault of his that the delay occurred, he is entitled to get the delay condoned.

3. I am not inclined to accept the contentions of the petitioner. It is for the petitioner to get authoritative documents within the time limit prescribed. When a rule is

prescribed for getting alteration of date of birth in the school records, the same has to be strictly followed. Admittedly, the petitioner is not entitled to get the delay condoned as per rules. That being so, there is no merit in the writ petition and accordingly the same is dismissed.

S. SIRI JAGAN, JUDGE

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